

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

AG SERVICES OF AMERICA, INC.,  
an Iowa corporation,

Plaintiff,

vs.

Civ. No. 96-1637 JC/WWD

JACK NIELSEN, et al,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Defendants' Motion to Compel Production of Documents. Specifically, the Defendants seek an order compelling the production of "[t]he entire personnel file of Eugene Knoploh, and all letters, notes, memoranda, or other documents which relate in any way to evaluations of Mr. Knoploh's work performance, any loans between AG Services and Terry Lundell, or any loans guaranteed by Terry Lundell." This was Request #2 of Defendants' Second Request for Production of Documents to Plaintiff. Plaintiff's response to the request was as follows:

"The requested documents will be produced and are attached." The documents were not attached. The Responses to the Request for Production were signed by counsel. Approximately two weeks later Plaintiff served "Plaintiff's Amended Response to Defendants' Second Request for Production of Documents." This "Amended Response" set forth the following objection to Request #2, to wit:

Objection. ASA objects to the production of the personnel file of Eugene Knoploh on the

grounds of relevancy and because the file contains confidential, sensitive information protected by Mr. Knoploh's rights of privacy.

For the sake of brevity I will not detail the additional conduct of Plaintiff's counsel.

Mercifully stated, this belated objection simply does not pass the "smell test." I decline at this late date to make an *in camera* inspection of the documents sought in Request #2. On or before January 12, 1998, Plaintiff shall deliver to Defendants all the documents called for in Request for Production #2 of Defendants' Second Request for Production of Documents. An appropriate confidentially order should be entered; however, I will not allow Plaintiff's counsel to mire down the process as he has done with respect to Request #2. If the parties cannot agree on a suitable form of order, then on or before January 9, 1998, each shall submit a suggested form of order to me. I will then enter the one which seems more reasonable to me amending it as may be necessary. I specifically reserve the right to impose sanctions in connection with the motion to compel and this Order.

Discovery shall proceed in accordance with the foregoing

IT IS SO ORDERED.

  
UNITED STATES MAGISTRATE JUDGE